

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 15601 of the McDonald's Corporation, as amended, pursuant to 11 DCMR 3108.1, for a special exception under Section 215 to allow an existing accessory parking lot to extend into a residential district, and a special exception under Section 2514.2 to allow the extension of a nonconforming use from a less restrictive district to a more restrictive district for a nonconforming fast food restaurant in a C-2-A and R-2 District at premises 7425 Georgia Avenue, N.W., (Square 2962, Lot 24).

HEARING DATE: January 15, 1992
DECISION DATE: January 15, 1992 (Bench Decision)

SUMMARY ORDER

At the public hearing, the application was amended to eliminate a variance from Sub-section 2002.5 to allow a structure devoted to a nonconforming use to be enlarged. The Board further added a special exception under Sub-section 2514.2 to allow the extension of a nonconforming use from a less restrictive district to a more restrictive district.

The Board duly provided timely notice of public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 4B and to owners of property within 200 feet of the site.

The site of the application is located within the jurisdiction of ANC 4B, and in proximity to ANC 4A. ANC 4B, which is automatically a party to the application, by letter dated July 8, 1991, supported granting of the application.

As directed by 11 DCMR 3324.2, the Board has required the applicant to satisfy the burden of proving the elements which are necessary to establish the case for a special exception pursuant to 11 DCMR 215. No person or entity appeared at the public hearing in opposition to the application or otherwise requested to participate as a party in this proceeding. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board, the Board concludes that the applicant has met the burden of proof, pursuant to 11 DCMR 3108, and that the requested relief can be granted as in harmony with the general purpose and intent of the Zoning Regulations and Map and will not tend to affect adversely the use of neighboring property in accordance with said Zoning Regulations and Map. It is therefore ORDERED that the application is GRANTED, SUBJECT to the following CONDITIONS:

1. Construction shall be in accordance with the site plan marked as Exhibit No. 16 of the record.
2. The applicant shall make every effort to retain the existing foliage on the site. The applicant shall also maintain the landscaping and privacy fence located to the east of the site.
3. All areas devoted to driveways, access lanes, and parking areas shall be maintained with a paving of material forming an all-weather impervious surface.
4. Bumper stops shall be erected and maintained for the protection of all adjoining buildings.
5. No vehicle or any part thereof shall be permitted to project over any lot or building line or on or over the public space.
6. All parts of the lot shall be kept free of refuse or debris and shall be paved or landscaped. Landscaping shall be maintained in a healthy growing condition and in a neat and orderly appearance.
7. No other use shall be conducted from or upon the premises and no structure other than an attendant's shelter shall be erected or used upon the premises unless such use or structure is otherwise permitted in the zoning district in which the parking lot is located.
8. Any lighting used to illuminate the parking lot or its accessory building shall be so arranged that all direct rays of such lighting are confined to the surface of the parking lot.

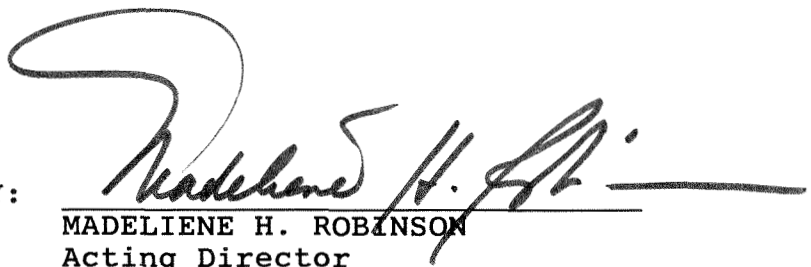
Pursuant to 11 DCMR 3301.1, the Board has determined to waive the requirement of 11 DCMR 3331.3 that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is not prohibited by law.

VOTE: 4-0 (Paula L. Jewell, Sheri M. Pruitt, John G. Parsons and Angel F. Clarens to grant; Carrie L. Thornhill not voting, having recused herself).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

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ATTESTED BY:


MADELIENE H. ROBINSON
Acting Director

FINAL DATE OF ORDER: _____

JAN 31 1992

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

15601Order/TWR/bhs